

1 **BEFORE THE OFFICE OF PEST MANAGEMENT**

2 In the Matter of:)

3 **BLUE SKY PEST CONTROL**, holder of)
4 **Business License No. 8224, CURTIS**)
5 **WHALEN**, holder of Qualifying Party License)
6 **No. 8243**, for Performing the Business of)
7 **Structural Pest Control in the State of**)
8 **Arizona,**)

9 Respondents.)

Case No.: 100168

ADVISORY NOTICE

10 The Acting Director of the Arizona Office of Pest Management ("OPM") considered the
11 above matter and issues this Advisory Notice:

12 This complaint, stemming from a routine OPM Use Inspection, contains allegations that
13 Blue Sky Pest Control allowed an Unlicensed Applicator to work beyond the (90) grace period
14 to apply pesticides, which is prohibited by A.R.S. 32-2312(E) and A.R.S. 32-2325(4).

15 **FINDINGS OF FACT**

16 1. On October 08, 2009, OPM Inspector Jason Vogt performed a routine Use
17 Inspection with Blue Sky Pest Control ("Blue Sky" or "Respondent") Applicator Paedn
18 Hancock. During the inspection, Inspector Vogt noted that Mr. Hancock did not hold an
19 applicator license, even though he stated that he originally hired in May, 2009. This matter was
20 assigned to OPM Investigator Robert Guzzi.

21 2. On October 20, 2009, Investigator Guzzi visted Blue Sky and reviewed treatment
22 records created by Mr. Hancock. Investigator Guzzi noted that Mr. Hankcock's first pesticide
23 application was on May 09, 2009. Investigator Guzzi also noted sporadic treatment records
24 from May 2009 through September 2009. According to A.R.S. 32-2312(E), Mr. Hancock
25 should have been licensed within (90) days from the first application of pesticides, which would
have been August 06, 2009.

3. Investigator Guzzi asked owner and qualifying party, Curtis Whalen ("Whalen" or "Respondent"), to explain why Mr. Hancock worked beyond (90) days. During the discussion, Investigator Guzzi learned that Mr. Hancock applied pesticides, from May 09, 2009 to May 22, 2009, but because Mr. Hancock had become very ill, he visited medical specialists and eventually resigned. Investigator Guzzi obtained medical documents substantiating Mr. Hancock was indeed ill. Mr. Hancock then returned to work in mid June, 2009, only to become injured on the job. He returned in mid July 2009 and had been working toward obtaining his Applicator License, which he did receive on October 15, 2009, which was (7) days after Inspector Vogt's initial inspection.

4. Mr. Whalen's failure to ensure Mr. Hancock was licensed within (90) days of first applying a pesticide does not appear to be a willful violation, but due to a misunderstanding of the Law.

CONCLUSIONS OF LAW

5. This matter lies within the OPM's jurisdiction.

6. The conduct and circumstances described in the Findings of Fact constitute grounds for disciplinary action against Respondents, for a violation of A.R.S. § 32-2321(B)(1) (Violating laws or rules), via A.R.S. § 32-2312(E) (Failed to ensure applicator became licensed within (90) days of first application) and A.R.S. 32-2325(4) (Allowed an applicator to apply pesticides without a license).

7. The Acting Director of the OPM has the authority to issue an **Advisory Notice** pursuant to A.R.S. § 32-2321(N), rather than impose disciplinary action, in cases of de minimis violations.

ORDER

8. IT IS ORDERED THAT BLUE SKY PEST CONTROL, holder of Business License No. 8224 and CURTIS WHALEN, holder of Qualifying Party License No. 8243be issued this

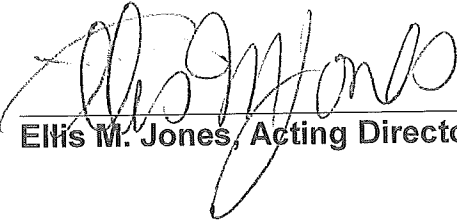
1 **ADVISORY NOTICE**, and that a future violation of OPM laws or rules, may result in
2 disciplinary action.

3 Entered this 17TH day of July 2010.



[SEAL]

OFFICE OF PEST MANAGEMENT


Ellis M. Jones, Acting Director

**Original "Decision and Order for an
Advisory Notice"**

filed this 17TH day of July
2010, with the:

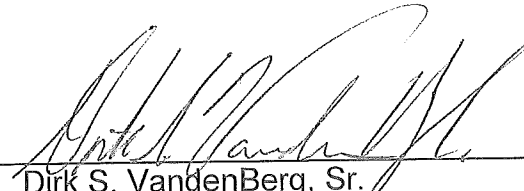
Office of Pest Management
9535 E. Doubletree Ranch Road
Scottsdale, AZ 85258

Copies of the foregoing mailed Regular
and Certified Mail return receipt requested
this 17TH day of July
2010, to:

**BLUE SKY PEST CONTROL
ATTN: CURTIS WHALEN**

CERTIFIED MAIL: 7008 1300 0001 2301

By


Dirk S. VandenBerg, Sr.
Regulatory Compliance Specialist